Advanced Planning Sushi: Exciting Planning Opportunities with Annuities and Trusts

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Speaker 1: Advanced Planning Sushi. Fresh and flavorful sales bites. Exciting planning opportunities with annuities and trusts.

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Speaker 1: Hi, there thanks for joining us for another episode of Advanced Planning Sushi. I'm your host Sarah from Marketing, and I'm joined today by the one and only David Szeremet. David, glad to have you back in the studio today.

Speaker 2: Thanks for having me, Sarah. It's a pleasure.

Speaker 1: Sure thing. So, David, AuguStar's new tagline is A Universe of Possibilities. And that tagline is spot on when it comes to annuities. AuguStar Retirement is excited about it's recent product launches and product enhancements. In just a few short months AuguStar has emerged as a strong competitor in the annuity marketplace. As of the recording of this podcast, annuity sales are well ahead of where they ended up in 2022 with about a month still to go in 2023.

Speaker 2: Yah, it's been amazing. We've definitely made a splash on the product side with industry leading multi-year guaranteed annuities and also enhancements to our fixed indexed annuities. And you know that's only two examples. Certainly, there's more to come. But you know along with products, the purpose of this podcast is to talk about some planning support. You know, our Advanced Planning team, we have a long history with annuities. We're excited to help advisors in the annuity marketplace and, you know, help find creative solutions for annuity clients. You know, Sarah, with that in mind, today I want to visit about an advanced planning topic that represents a significant opportunity for annuity advisors. And that topic is annuities and trusts.

Speaker 1: Ok, David so trust owned annuities is a pretty big topic here. Help us focus this one down a bit. So, just to be clear. We're only going to discuss non-qualified annuities today. Correct?

Speaker 2: That's right, Sarah, because if the conversation goes in the direction of qualified annuities, you know, such as individual retirement account, you know, SEP IRAs, SIMPLE IRAs, 403(b)s, you know, and the like, it just gets, there are far too complicated. Each of those topics would be considered on its own. I'm sure we'll hit those in future podcasts. But for today, let's focus on non-qualified annuities.

Speaker 1: Sure. That sounds great. So, we've got four things outlined here. Let's take it from the top. How about trust owned annuities?

Speaker 2: Sure. You know, people don't always naturally think about a trust owning an annuity contract, but if you think about what trusts can provide, which would be things like creditor protection, tax savings, certainly at the estate level, and generation skipping tax level, you know you really can talk about combining two powerful planning techniques when you think about a trust and an annuity, which is, you know, the annuity, the deferral of income, guaranteed income, you know, protection of wealth, combined with a trust which can provide things like creditor protection and again tax savings at multigenerational levels. You really can combine two powerful planning techniques when you think about trust owned annuities. So, one of the principles you have to understand right up front though is, generally speaking, a trust owned annuity does not receive tax deferral because a trust is not a natural person, it's not a human being. So, the tax code has this general rule which says trust owned annuities generally are taxable every year for the gain. So, that's not good. Now fortunately in the law just about every rule has an exception and one of the exceptions is if the trust is holding an annuity as an agent for a natural person, so basically if the trust is there holding an annuity contract for one single human beneficiary, then it is said to be acting as an agent for that person and it can receive tax deferral. So, trust owned annuities again, you can combine you know the tax savings, the tax deferral with the creditor protection and the estate tax savings on the back end with a trust owned annuity. But we have to make sure that the trust is drafted in such a way that it is acting as an agent for a natural person. And you know, Sarah, one of the services I offer right up front with this topic is document review. So, in the Advanced Planning department we have attorneys available to review trust documents to see what language may or may not be in that trust to see if it can potentially qualify for the agency rule, to qualify for continued deferral. But I think it is very important for advisors out there to understand trust owned annuities can be a pretty dangerous topic for somebody who is not careful.

Speaker 1: Sure.

Speaker 2: And, you know, not all trusts are created equal. Not all trusts will provide tax deferral for a trust owned annuity. But the ones that are drafted properly and administered properly, it really does combine, you know, tax planning with, you know, excellent estate planning opportunities. So, trust owned annuities. We can allow them at AuguStar.

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Speaker 2: We have the ability to help analyze those documents and it's really one of the things that helped set us apart from some of our competitors when you put it all together.

Speaker 1: Alright. Tell us a little bit about trusts as a beneficiary.

Speaker 2: Sure. So, we just talked about trust owned annuities as a potential planning concept.

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Speaker 2: What about trust as beneficiary? Well that gets back to more of some of the basics of trust planning. Which is well why would you name a trust as beneficiary of an annuity? What's the point there? Because some people will say, you know, an annuity avoids probate. It is private. You know, there is no added benefit of paying an annuity through a trust, but that's where I would say well we've got to back up a little bit because there are some cases where a trust might make perfect sense. And really the classic scenario is protecting trust beneficiaries from themselves. Meaning maybe we have some beneficiaries who aren't good with money. Or they have, you know, divorce problems or in the case of families with individuals who have special needs a trust could be very important there. So, trust as beneficiary of an annuity, you know, isn't something we automatically recommend, but in appropriate cases where that extra support is needed you know, the help of a trustee who can help manage and distribute those annuity proceeds to the beneficiaries, a trust could be a very powerful planning technique. And again, this is another area where at AuguStar we allow trust as beneficiary of an annuity just like we allow the trust as an owner of an annuity. So, we're when it comes to service and support there we're proud to say that we're right on track there.

Speaker 1: Ok. Very good. So, an idea related to a trust as a beneficiary is a non-qualified Stretch. Tell us what that is all about.

Speaker 2: Yah, and this gets into some of the recent tax law changes and in particular the SECURE Act, which essentially killed the Stretch IRA. Now again, today's presentation, today's podcast, we're talking more about non-qualified annuities. But just as a comparison, these SECURE Acts eliminated the Stretch IRA, which is the ability to stretch out an IRA distribution over a beneficiary's lifetime. So, for somebody who inherits that retirement account, they are now generally forced to distribute that account within ten years of the death of the owner of the original account. Non-qualified annuities were not covered by the SECURE Act. So, the good news here is, we can continue to use a trust as beneficiary of that non-qualified annuity and the trustee still has the capability to stretch distributions over the beneficiaries' lifetimes if that is something that fits. So, it's just an area where there's what I would call a competitive advantage over qualified accounts. So, non-qualified accounts did not get dragged into that drag net of the SECURE Acts. Just something for advisors out there to remember because I have been getting a lot of calls where advisors unfortunately misunderstood the SECURE Act, and they think it applies to all annuities. It does not. So, non-qualified annuities we still have that capability to use a trust to do a lifetime Stretch. And again this just helps ensure that those funds are managed properly and that the beneficiary does not go out and you know make some bad decisions or is the victim of some sort of predator trying to get at their funds.

Speaker 1: Sure.

Speaker 2: Trust and non-qualified Stretches look great today.

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Speaker 1: Alright, David. So, let's kick this up a notch.

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Speaker 1: Annuities can also be used for multigenerational wealth planning. Tell us how trusts can fit into this concept.

Speaker 2: Sure thing, Sarah. And this is what I would say, it's like the top of the planning pyramid with trust owned annuities. And the topic of interest here is income tax planning for trust beneficiaries. So, we would be focusing on scenarios with wealthier families where an annuity, which may be held as one of the trust assets, could be distributed later on out to the trust beneficiaries and the idea here is to distribute the annuity without current taxation, without a 1099 being issued. That could be huge because for wealthier families often the trust beneficiaries also have income tax concerns. So, the concept here is the trust would be purchasing an annuity with each trust beneficiary being an annuitant of a separate annuity. So, in a quick example, if you have two remainer beneficiaries, two children or grandchildren who would be benefitting ultimately under this trust, the trustee would purchase an annuity, a separate annuity, for each trust beneficiary with the trust beneficiary being the annuitant. So, again, with two let's say children, each one would be the annuitant of a separate annuity and then ultimately when let's say the parents have passed away, those two annuities could be distributed out to each of the trust beneficiaries by way of an annuity ownership change form. And if it is structured properly and administered properly under guidance provided by private letter rulings from the IRS, the IRS has repeatedly ruled that that would not be a taxable ownership change or a taxable distribution of that annuity. Now, I must stress this is based on guidance provided by private letter rulings which cannot be cited as authority in tax court. So, we are a little bit in the gray area here. However, this has been a ruling that has come out repeatedly, so it does give you a good idea of what the IRS is thinking and that they are ok with this strategy as long as it is being handled correctly. Now, at AuguStar we do require the trustee to sign and return what we call a trustee certification indicating that they understand that this, they are doing this on their own and that they are consulting their own tax advisors for this strategy, but the pass in kind strategy that I am describing could be a very powerful multigenerational wealth transfer strategy to defer income taxes for several generations. Which again, wealthier clients could be very, very interested in this strategy.

Speaker 1: David, that sounds like an amazing planning opportunity.

Speaker 2: It really is, Sarah. And again it is not for everybody, but if you think about, you know, we just talked about the potential to have an annuity that could be tax deferred for multiple generations. That's very powerful. Also, we just discussed, you know, trust owned annuities in general as a great strategy for trustees to balance the needs of income beneficiaries and remainder beneficiaries. We've also discussed, you know, the non-qualified Stretch and trust as annuity beneficiary. And all of these strategies we just discussed at AuguStar we can support these strategies. We can help administer these strategies. So, if you think about it. It really is, you know, it's a differentiator for AuguStar as a leading player in the annuity marketplace when it comes to Advanced Planning strategies.

Speaker 1: And, David, there's a topic that we haven't touched on today which is control from the grave. And at AuguStar this gives the annuity owner the opportunity to preselect or lock in various settlement options. It's done with the use of a very simple form, which is available on our agents' website forms catalog.

Speaker 2: That's right, Sarah. Not every client will be appropriate for a trust. Not every family situation is going to be that complicated. And some clients, quite frankly, they don't want to deal with the time, the hassle, the legal fees of establishing a trust. So, I'm glad you brought up the idea of the control from the grave option because again it's just another differentiator that we allow at AuguStar that reps out there should be aware of.

Speaker 1: That's right and behind the scenes the Advanced Planning team has been creating new marketing materials to support the new annuity lineup and help explain concepts just like these.

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Speaker 1: So, for all of our listeners out there. Please be on the lookout for lots of new pieces as we continue to grow this core product line. We're here to support you and a universe of possibilities.

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